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NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE, Plaintiff and Respondent, v. MICHAEL BROMBACKER, Defendant and Appellant.	C079035 (Super. Ct. No. 13F05879)

A jury found defendant Michael Brombacker guilty of 25 counts of lewd and lascivious acts on a child under the age of 14 and one count of a lewd and lascivious act on a 14 year old. The counts related to three separate victims: G. (counts 1-16), Samantha (counts 17-25) and Brittany (count 26). The jury found true that the offenses were committed against more than one victim. The trial court sentenced defendant to serve a term of 375 years to life plus three years in prison.

On appeal, defendant contends: (1) His convictions for counts 8 and 24 are not supported by substantial evidence, (2) the trial court abused its discretion and violated his

constitutional rights by denying his request for a continuance, (3) the trial court abused its discretion in denying his related motion to strike and motions for a mistrial, (4) the trial court abused its discretion in admitting testimony from G.'s mother regarding her daughter's medical condition and the mother's assessment that G. had the mentality of an eight year old, and (5) the trial court abused its discretion in allowing Samantha and Brittany to testify regarding the effects of defendant's molestation on their lives. Viewing the record as a whole and in the light most favorable to the prosecution, defendant's convictions for counts 8 and 24 are supported by substantial evidence. Any error in admitting G.'s mother's testimony was harmless. Additionally, we conclude the trial court did not abuse its discretion or violate defendant's constitutional rights by denying his request for a continuance. The trial court also did not abuse its discretion in denying defendant's related motion to strike and motions for a mistrial, or in admitting Samantha's and Brittany's testimony regarding the lingering impact of defendant's crimes. Accordingly, we affirm the judgment.

I. DISCUSSION

A. Count 8

Of the counts regarding G., counts 1-4 related to a house in Elk Grove, counts 5 through 10 related to a house on Golden Star Drive in Valley Springs, and counts 11 through 16 related to a house on Gold King Drive in Valley Springs. With respect to the house on Golden Star Drive in Valley Springs, in counts seven and eight, the jury found defendant guilty of having sexual intercourse with G.. Counts 7 and 8 were differentiated from each other as the "first time" and the "last time," respectively. The jury also found defendant guilty of two counts of digital penetration (counts 5 and 6) and two counts of inserting a dildo into G. (counts 9 and 10) at this house. Defendant asserts count 8 is not supported by substantial evidence because there is insufficient evidence that sexual intercourse took place more than once at this address. We disagree.

1. G.'s Testimony

In his direct examination of G., the prosecutor began by asking her about the sexual abuse that occurred at defendant's house in Elk Grove. (This is the house G. would visit, beginning at age 10, when her mother began to date defendant.) She recounted instances of digital penetration and sexual intercourse there, and the prosecutor asked her how many times each act occurred. Specifically, G. testified defendant inserted his penis into her at least twice at this address. The prosecutor next turned G.'s attention to the house on Golden Star Drive in Valley Springs, which was the first house defendant lived in with G. after moving to Valley Springs from Elk Grove:

"Q. We're talking about the first house in Valley Springs when he moved in with you, what part of his body did he use to touch you?

"A. His fingers, penis, and—

"[¶] . . . [¶]

"Q. So the times that you mentioned that were the most painful, this was bleeding or blood, was in Elk Grove?

"A. Yes.

"Q. How many times would you say that he put his fingers inside of your vagina at the first house?

"A. I can't remember.

"Q. How often did it seem like to you?

"A. Every night.

"Q. And going back to what you said, what other parts of his body did he use in the first house?

"A. His penis.

"Q. Was this usually at night, also?

"A. Yes, sir.

"Q. And same kind of scenario. He could come in late at night?

"A. Yeah.

"Q. How many times did this happen at the first house in Elk Grove?

"A. A bunch, more than once."

From there, the prosecutor asked more questions about the "first house" (the Golden Star Drive house) in Valley Springs.

2. Sufficiency of the Evidence

"To assess the evidence's sufficiency, we review the whole record to determine whether *any* rational trier of fact could have found the essential elements of the crime . . . beyond a reasonable doubt. [Citation.] The record must disclose substantial evidence to support the verdict—i.e., evidence that is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] In applying this test, we review the evidence in the light most favorable to the prosecution and presume in support of the judgment the existence of every fact the jury could reasonably have deduced from the evidence. [Citation.] 'Conflicts and even testimony [that] is subject to justifiable suspicion do not justify the reversal of a judgment, for it is the exclusive province of the trial judge or jury to determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends. [Citation.] We resolve neither credibility issues nor evidentiary conflicts; we look for substantial evidence. [Citation.]' [Citation.] A reversal for insufficient evidence 'is unwarranted unless it appears "that upon no hypothesis whatever is there sufficient substantial evidence to support" ' the jury's verdict." (*People v. Zamudio* (2008) 43 Cal.4th 327, 357.)

Viewing the record as a whole, it appears the prosecutor misspoke when he asked G., "How many times did this happen at the *first house* in *Elk Grove*?" (Italics added.) He had already asked her how many times defendant had sex with her at the Elk Grove house during his questioning regarding that house. He had since moved on to the first house in Valley Springs. Further, the prosecutor consistently referred to the houses in

Valley Springs as the first or second house.[1] This clarification was unnecessary with respect to the Elk Grove house because G.'s testimony only related to one house in Elk Grove. Accordingly, G.'s answer is ambiguous with respect to whether she understood the prosecutor to be asking her about the Elk Grove house or to still be referring to the first house in Valley Springs. Moreover, G. agreed it was "usually" at night when defendant had sex with her at "the first house." The term "usually" necessitates more than one occurrence. Here, again, the reference to "the first house" was ambiguous. Viewing the record as a whole and in the light most favorable to the prosecution, the jury could have reasonably deduced from G.'s testimony that defendant had sexual intercourse with her more than once at the first house in Valley Springs. This inference is also supported by the frequency with which defendant had sex with G. at other locations. Thus, substantial evidence supports defendant's conviction for count 8.

B. Count 24

In counts 23 and 24, the jury found defendant guilty of digitally penetrating Samantha when she was 13 years old. Again, these counts were differentiated from each other as the "first time" and the "last time," respectively. As with his previous claim, defendant asserts count 24 is not supported by substantial evidence because there is insufficient evidence the act took place more than once during this time period. Again, we disagree.

Samantha testified defendant penetrated her with his fingers more than twice when she was 11 years old. When Samantha was 12 years old, the digital penetration happened "multiple, multiple times," and sometimes more than once a week. Then, the prosecution asked her about the year she was 13. Samantha said during the first half of the year "the

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[1] A few pages later, the prosecutor misspoke again, but this time he corrected himself: "Now you're saying by the time he got to the second house in Elk Grove or I'm sorry, the second house in Valley Springs, things had changed?"

same type of things" were happening, and nothing happened during the last half of the year. The prosecution asked if, during the first half of the year, defendant was "still penetrating your vagina with his fingers?" Samantha responded, "Correct, he was." In this context, the response, "Correct, he *was*," strongly suggests this act was ongoing or at least repeated more than once during the first half of the year. Indeed, it would be an unusual response if the digital penetration had only occurred once during that time period. Viewing the record as a whole and in the light most favorable to the prosecution, the jury could have reasonably deduced from Samantha's testimony that defendant digitally penetrated her more than once when she was 13. Therefore, substantial evidence supports defendant's conviction for count 24.

C. Alleged CPS File

Defendant contends the trial court abused its discretion in denying his request for a continuance to obtain a possible Child Protective Services (CPS) report involving Brittany, and then denying his alternative motions to strike and motions for a mistrial. Defendant also posits that the denial of his request for a continuance violated his right to due process (including the right to present a defense), his right to effective cross-examination and his right to effective assistance of counsel under the state and federal constitutions. We conclude the trial court did not abuse its discretion in denying defendant's request for a continuance and related relief, and are unpersuaded by his constitutional claims.

1. Trial Court's Ruling

On the morning of the second day of trial (a Thursday), the prosecutor discovered a full copy of a statement Brittany made to law enforcement in 2004. He then provided the statement to defense counsel. In relevant part, the complete statement indicated Brittany told her stepsister, Gabriela, about the incident with defendant. Defense counsel expressed concern that Gabriela might thus be aware of a prior inconsistent statement made by Brittany or other material information. Gabriela had previously been listed as a

witness, but defense counsel had not contacted her. Defense counsel asked for a one-day continuance after the completion of the current witness, and for Brittany to begin her testimony on Monday (as the court was not in session on Friday). The trial court decided that if Brittany testified later that day, she would remain available. The court noted that would give defense counsel the next day (Friday) and the weekend to contact Gabriela and then give the court more information on Monday, if there was any. Brittany did begin testifying that day. The trial court recessed for the weekend during the prosecutor's redirect examination so that they could resume with her on Monday if there was anything more to discuss.

The following Monday, defense counsel reported that his investigator had interviewed Gabriela. Defense counsel read from the statement his investigator gave him:

" 'Brittany has also made up a story about abuse. 2003, give or take a year, when Brittany and I were in middle school together, a CPS worker took me out of class and questioned me. I had no idea what CPS was at the time. The worker asked me if I ever witnessed my stepdad hit Brittany. I asked some questions about what was going on. It was a long time ago. But I believe the worker said it had been brought to [the worker's] attention that my stepdad hit Brittany with the belt [b]uckle.

" 'The worker asked me if my stepdad ever hit me, my stepdad didn't ever hit Brittany or me. I never saw my stepdad hit Brittany and he never did hit me. CPS didn't want to follow up with me. And I was never contacted by a CPS worker again.' "

Defense counsel indicated that, based on Gabriela's statement, he believed there "may be a CPS file regarding this" and there "may be impeachment information." The trial court asked how the file could lead to impeachment, noting that Brittany could have been hit by a belt outside of the presence of her stepsister. Defense counsel agreed that was possible, but countered it was also possible Brittany lied. Defense counsel asked the court to obtain the CPS file and review it in camera. The court maintained defendant

needed to file a formal petition under Welfare and Institutions Code section 827. The court then reread the relevant passage from the investigator's statement into the record, beginning, " 'In 2003, give or take a year.' " After it finished reading, the court added, "[t]here is speculation that follows that about her mom putting Brittany up to it so she could get custody of Brittany. There is speculation about something to do with an adoption of a child being the motivation. [¶] But there [are] a couple of problems with getting into this, and there [are] a couple of reasons that I'm going to deny any request to delay it. [¶] One, there is nothing in this report to indicate that Brittany is even the one that made the complaint to start with. There is nothing that suggests that the complaint that they were investigating, however it came to the attention of CPS, wasn't, in fact, true. [¶] And the only thing that causes the defense to suggest that it's false is what Gabriela [] said during this interview that Brittany made up the story of abuse by her stepdad about the belt buckle incident. There is nothing to support that conclusion. There is nothing, in fact, to connect the original complaint about the belt buckle to Brittany. [] It is so tangential to the issues and so based on speculation that a request to delay the proceedings is denied."

The court denied defense counsel's request for a four-week continuance. Defense counsel then asked if the court would approve "a more abbreviated process" where the court would obtain the CPS file, review it in camera, and then tell defense counsel if there was anything relevant, exculpatory or impeaching in the file. The trial court denied this request. In addition to repeating its previously-articulated concerns, the trial court noted defense counsel could not even represent to the court that a CPS file existed.

Based on these denials, defendant requested "a variety of remedies:" (1) that Brittany's testimony be stricken, (2) for a mistrial on count 26, and (3) for a mistrial on all counts. His counsel argued a mistrial on all counts was appropriate because Brittany was "a third unrelated accuser who doesn't have a sort of complicated relationship with [defendant]." The trial court denied each request. Afterwards, the prosecution's redirect

examination of Brittany resumed. Defense counsel had no questions for recross-examination. Closing argument began later that day.

2. Motion for Continuance

Courts, judicial officers and counsel owe a duty to expedite criminal proceedings "to the greatest degree that is consistent with the ends of justice." (Pen. Code, § 1050, subd. (a).) Accordingly, motions to continue are disfavored and granted only on a showing of good cause. (*Id*., subd. (e); Cal. Rules of Court, rule 4.113.) "An important factor for a trial court to consider is whether a continuance would be useful." (*People v. Beeler* (1995) 9 Cal.4th 953, 1003.) "[T]o demonstrate the usefulness of a continuance a party must show both the materiality of the evidence necessitating the continuance and that such evidence could be obtained within a reasonable time." (*Ibid*.) The decision to grant or deny a continuance rests within the sound discretion of the trial court. (*People v. Beames* (2007) 40 Cal.4th 907, 920.)

"The party challenging a ruling on a continuance bears the burden of establishing an abuse of discretion, and an order denying a continuance is seldom successfully attacked. [Citation.] [¶] Under this state law standard, discretion is abused only when the court exceeds the bounds of reason, all circumstances being considered." (*People v. Beames, supra,* 40 Cal.4th at p. 920.) "A reviewing court considers the circumstances of each case and the reasons presented for the request to determine whether a trial court's denial of a continuance was so arbitrary as to deny due process." (*People v. Doolin* (2009) 45 Cal.4th 390, 450.) Not every denial of a request for more time violates due process, "even if the party seeking the continuance thereby fails to offer evidence." (*People v. Beames, supra,* at p. 921; accord *Ungar v. Sarafite* (1964) 376 U.S. 575, 589.)

Defendant has not met his burden of demonstrating an abuse of discretion. A dozen years had passed since CPS contacted Gabriela, and Brittany was 23 years old when she testified. Defendant assumes Brittany made allegations against her father, at least at some point, and assumes there was a CPS report reflecting this allegation and

concluding the allegations were unsubstantiated. Even if true, this does not mean CPS would have retained the file. Defense counsel produced no information that any record still existed, and seemed to misunderstand how to obtain it. But even if the record did exist and could be obtained within a reasonable time, defendant's theory of its admissibility is apparently that whether as a child Brittany lied about her father's physical abuse was relevant impeachment in a trial 12 years later about whether a different man molested her. We have previously held that a prior false accusation of sexual molestation is relevant to the issue of a molest victim's credibility. (*People v. Tidwell* (2008) 163 Cal.App.4th 1447, 1457.) Here, any prior allegations were of a different type. More critically, as the trial court recognized, "[t]he value of the evidence as impeachment depends upon proof that the prior charges were false." (*People v. Bittaker* (1989) 48 Cal.3d 1046, 1097, overruled on another ground in *People v. Black* (2014) 58 Cal.4th 912, 919-920.) Thus, courts have upheld the exclusion of evidence of a prior false complaint under Evidence Code section 352[2] on the basis that there was no conclusive proof the prior complaint was false and so admitting the evidence would have resulted in an undue consumption of time. (*People v. Bittaker, supra,* at p. 1097; *People v. Tidwell, supra,* at pp. 1457-1458.) Here, as the trial court noted, Gabriela's statement only suggested a CPS file might lead to such excludable information. Even if Brittany had made a complaint, the mere fact it was potentially unsubstantiated or that Gabriela did not agree with it would not make it necessarily false. (See *People v. Miranda* (2011) 199 Cal.App.4th 1403, 1425 ["The conclusion that the claim was unfounded was an opinion of a social worker, and the admissibility of that conclusion is doubtful"].) The differences between the prior complaint and this one also weigh in favor of exclusion. (See *id.* at p. 1426 ["According to defense counsel, the current and prior complaints had a

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[2] Undesignated statutory references are to the Evidence Code.

connection to the divorce of [the victim]'s parents and issues of child custody, matters far afield from the charges in this case"].) On appeal, defendant now argues the CPS file "may have contained information that Brittany had retracted the allegation after being questioned and[/]or admitted she was lying about it." This speculation does not cure his failure to demonstrate the existence and potential usefulness of the file to the trial court. We must look to "the reasons presented to the trial judge at the time the request is denied." (*Ungar v. Sarafite, supra,* 376 U.S. at p. 589.) Further, nothing Gabriela relayed to the investigator suggested a CPS case file would contain an admission that Brittany made a false allegation. As a result, the trial court's denial of defendant's request for a continuance hardly exceeded the bounds of reason.

Nor do we find the court abused its discretion by making an uninformed ruling. As the People note, any request for a continuance for a defendant to obtain potentially helpful evidence necessarily requires the trial court to rule without knowing the precise nature of the evidence the defendant hopes to obtain. Hence, our Supreme Court has at times stated that a trial court ruling on a continuance motion "considers ' "not only the benefit which the moving party anticipates but also the likelihood that such benefit will result." ' " (*People v. Jenkins* (2000) 22 Cal.4th 900, 1037.) We are aware of no time when an appellate court has adopted defendant's unusual position that it was the trial court's responsibility to obtain the evidence before ruling on whether a continuance was warranted to obtain that same evidence. We affirm the trial court's denial of defendant's request for a continuance.

3. Motion to Strike and Motions for Mistrial

Because defendant's motion to strike and motions for a mistrial were requested as remedies based on the trial court's denial of the motion for a continuance, having already affirmed that ruling, we conclude the trial court did not abuse its discretion in denying these motions as well. Further, "[a] trial court should grant a mistrial only when a party's chances of receiving a fair trial have been irreparably damaged." (*People v. Bolden*

(2002) 29 Cal.4th 515, 555.) As set forth above, defendant has not demonstrated any damage whatsoever. For these reasons, we affirm the trial court's denial of defendant's motion to strike Brittany's testimony and his motions for a mistrial as to count 26 and as to all counts.

4. Constitutional Claims

We also reject defendant's constitutional claims. " '[B]road discretion must be granted trial courts on matters of continuances; only an unreasoning and arbitrary "insistence upon expeditiousness in the face of a justifiable request for delay" violates the right to the assistance of counsel' " (*People v. Alexander* (2010) 49 Cal.4th 846, 934) or to due process (*Ungar v. Sarafite, supra,* 376 U.S. at p. 589). No such arbitrary insistence on pressing forward occurred here. The trial court considered the likelihood defendant would obtain admissible evidence with a continuance before denying his request. The court's decision ran afoul of neither defendant's right to counsel nor his right to due process. Defendant's right to present a defense is a due process right. (*People v. Babbitt* (1988) 45 Cal.3d 660, 684.) It was equally unimpaired by the court's ruling. "Although completely excluding evidence of an accused's defense theoretically could rise to this level, excluding defense evidence on a minor or subsidiary point does not impair an accused's due process right to present a defense." (*People v. Fudge* (1994) 7 Cal.4th 1075, 1103.) Indeed, the right to present a defense does not confer on defendant " 'a constitutional right to present all relevant evidence in his favor, no matter how limited in probative value such evidence will be so as to preclude the trial court from using [] section 352.' " (*People v. Babbitt, supra,* at p. 684.) Here, whether Brittany made a false physical abuse allegation against her father 12 years earlier was subsidiary to whether Brittany was making a false allegation against defendant at trial. Defense counsel was not prohibited from arguing, as he did, that Brittany's story changed, was implausible and was generally fabricated. Thus, the court's ruling violated neither

defendant's right to counsel nor his right to due process, including his right to present a defense.

The trial court's ruling also did not violate defendant's right to confrontation. "A trial court's limitation on cross-examination pertaining to the credibility of a witness does not violate the confrontation clause unless a reasonable jury might have received a significantly different impression of the witness's credibility had the excluded cross-examination been permitted." (*People v. Quartermain* (1997) 16 Cal.4th 600, 623-624.) The trial court's ruling had no such effect and we reject defendant's final claim of constitutional error. (See *People v. Miranda, supra,* 199 Cal.App.4th at pp. 1422, 1426 [rejecting claim that exclusion of evidence of prior false claim violated defendant's constitutional right to cross-examine witness].)

D. P.'s Testimony

Defendant argues G.'s mother, P., was not qualified under section 800 regarding opinion testimony by lay witnesses to testify that G. suffered from tuberous sclerosis and had the mentality of an eight year old. We conclude any error was harmless.

P. testified G. would try to talk with P. about the molestation even though they were instructed not to discuss it because G. has "[t]uberous sclerosis. And that's where tumors on the major organs of your body, be it your skin, your heart, your kidneys, your eyes, your lungs, your brain. And she has tumors on her brain, so that makes her have the mentality of an eight year old." At the time, the trial court overruled defense counsel's objection to this testimony. Later, outside the presence of the jury, defense counsel elaborated that he didn't "disagree with the performance" but believed "the medical stuff she was saying about tumors and the diagnosis" was "improper lay opinion and hearsay." The trial court ultimately agreed to strike everything except the name of the condition and the fact that it gave G. the mentality of an eight year old. Defense counsel indicated he did not want to admonish the jury about the stricken testimony because he did not want to draw attention to it.

Even assuming this claim was preserved for appeal, it is unnecessary for us to consider whether the trial court abused its discretion in admitting any of this testimony because, even assuming error, we conclude any error was harmless. This testimony bolsters defendant's theory of the case at least as much as it potentially evokes sympathy for G.. At trial, G. and the other victims testified defendant performed the sexual acts that formed the bases for the counts he was convicted of. Defendant denied ever inappropriately touching Samantha or Brittany. With respect to G., he testified he never had sex with her until she was 15 and they were living in Washington. In short, his defense was that the witnesses fabricated all of the events that formed the bases for the charges against him. That P.'s testimony was no more harmful than helpful to defendant is illustrated by his reliance on it. In support of his assertion that admitting testimony regarding G.'s condition was prejudicial, defendant actually incorporates an argument that relies on this very evidence to suggest G. fabricated her testimony: "[G.] suffers from tuberous sclerosis, which gives her the mentality of an eight-year-old. [Citation.] A person with the mentality of an eight-year-old would certainly be more malleable and subject to influence or manipulation than an adult. G. had also been disappointed that [defendant] and her mother were married without her being present in 2010. [Citation.] A person with the mentality of an eight-year-old may very well harbor a grudge for not being allowed to attend the wedding." Under these circumstances, any error in admitting this information was harmless.[3]

E. Effects of Abuse on Victims

Defendant argues the trial court abused its discretion when it allowed Samantha and Brittany to testify regarding the lingering effects of defendant's molestation. As we will demonstrate, this testimony was relevant to why both victims waited to report

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[3] The fact that the trial court never admonished the jury about the testimony it did strike does not alter our analysis.

defendant's molestation. And this relevance was not substantially outweighed by any unique tendency to evoke a bias against defendant. Therefore, it was within the trial court's discretion to admit this evidence and to refuse to exclude it under section 352.

1. Samantha's Testimony

Samantha testified that, when she was 20, she told her now husband what had happened with defendant.

"Q. This—it sounds like you told very few people over the course of your life?

"A. Uh-huh.

"Q. And I guess the final question I'm going to ask you is why?

"A. I mean, up until—I know I finally felt safe telling my now husband. At that time and at that point, I was in a situation where I did feel safe.

"[¶] . . . [¶]

"And my husband started to see some—things that reactions and certain things that had happened. Ways that I respond to situations that concerned him. And I just kind of came out with it.

"Before we got married, he—we had been fighting, and he had his issues, I had mine. But he was still really concerned after I kind of opened that wound of how I was handling it. And behavioral changes in me, he would ask me to go see a therapist, and I did. And I opened up about everything. And I got diagnosed with some—you know, things because of my childhood.

"Q. Let me stop you there for a moment. To this day, the things that you have mentioned that you are dealing with, what kind of effect [have] these actions had on your life?

"A. I struggle from anxiety coupled with the depression. I have mild PTSD, and I also have a mild form of OCD.

"[Defense counsel:] Object as to that diagnosis. Move to strike, the behavioral—
"THE COURT: The portion of the answer, 'I struggle from anxiety coupled with depression will remain.' [*sic*] The balance of the answer will be stricken.

"[By the prosecution:]

"Q. And I guess focusing on your anxiety and the connection to these things that happened when you were ten through fourteen years old, is it something—is the anxiety triggered by thinking about what happened, or is it just kind of a general form of stress that you have in your life?

"A. It's both. It's triggered by stress. It's triggered by normal relationship issues that most people can handle. I kind of sink in or I freak out and want to run away."

2. Brittany's Testimony

"Q. Did you tell your mom what happened?

"A. I did not.

"Q. Why not?

"A. I wasn't a great kid. I was always in trouble. And I just felt that if I would have told again, I wouldn't have been believed. So I figured it would be best to bury it and act like it never happened.

"Q. And that's what you did?

"A. Yes.

"Q. That's—I guess that's a lot to carry for a ten or eleven-year-old girl?

"A. Yeah, very much.

"[¶] . . . [¶]

"Q. How did that effect your life as you, in your words, buried it?

"A. My self[-]esteem went out the window. I was afraid to be around guys." The prosecutor later asked Brittany if she ever told any of her teachers or friends about what happened. Brittany said she did not because of her self-esteem and anxiety issues.

3. Relevance

" 'Relevant evidence' means evidence, including evidence relevant to the credibility of a witness . . . , having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." (§ 210) The trial court may not admit irrelevant evidence, but it has broad discretion in determining whether evidence is relevant. (*People v. Babbitt*, *supra*, 45 Cal.3d at p. 681.) It also has discretion to exclude even relevant evidence under section 352 "if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury." (§ 352.) " ' "The 'prejudice' referred to in [] section 352 applies to evidence which uniquely tends to evoke an emotional bias against the defendant as an individual and which has very little effect on the issues." ' " (*People v. Nguyen* (2015) 61 Cal.4th 1015, 1035.) "A trial court's exercise of discretion in admitting or excluding evidence is reviewable for abuse [citation] and will not be disturbed except on a showing the trial court exercised its discretion in an arbitrary, capricious, or patently absurd manner that resulted in a manifest miscarriage of justice [citation]." (*People v. Rodriguez* (1999) 20 Cal.4th 1, 9-10.)

The trial court did not abuse its discretion in admitting Samantha's and Brittany's testimony. It was relevant to why both victims waited to report defendant's molestation. Brittany testified the self-esteem and anxiety issues the incident caused were why she did not tell people about it. Samantha testified that her issues were what led her husband to elicit from her what had happened. And the fact defendant's abuse caused her anxiety that was triggered by stress corroborated her testimony that she had previously attempted to put the incident behind her rather than come forward. Moreover, none of the testimony was sufficiently prejudicial for us to conclude the trial court abused its discretion in admitting it under section 352.

II. DISPOSITION

The judgment is affirmed.

/S/

RENNER, J.

We concur:

/S/

NICHOLSON, Acting P. J.

/S/

DUARTE, J.